

## **REMARKS**

Claims 1-14 are pending in this application. Claims 1-14 have been rejected. No claims have been amended. In view of the following remarks, the applicants request allowance of the application.

Applicants thank the Office for withdrawing the 35 U.S.C. § 112 ¶ 2 rejection.

### **Claim Rejections under 35 U.S.C. §103(a)**

Claims 1, 2, 4, 5, 8, 9, 11, and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Application No. 2002/0138387 ("Griffin") in view of U.S. Application No. 2005/0131788 ("Verdonick"). For the following reasons, Griffin in view of Verdonick does not disclose all of the features of the present claims.

Claim 1, recites:

An automated method comprising:

- (a) **receiving input selecting a time period** for which adjustments to accounting records of a joint venture are to be applied, where the time period falls between **a present time** and a time of **an inception of the venture**, and **includes some period of time prior to the present time**;
- (b) receiving input selecting one or more types of accounting records to which the adjustments are to be applied, **where one type of the accounting records includes cash call accounting records**; and
- (c) based on input received, applying adjustments to the accounting records of the joint venture.

Claim 1, as previously and originally presented, discloses the feature of "receiving input selecting a time period for which adjustments to accounting records of a joint venture are to be applied, where the time period falls between a present time and a time of an inception of the venture." Griffin does not disclose or even suggest this subject matter. Nothing in Griffin deals with a *prior time period*, e.g., a "time period [that] falls between a present time and a time of an inception of the venture." The Office cites Griffin at ¶¶ 11 and 63 against the above quoted feature. As demonstrated in our prior response, these sections have nothing to do with a prior time period. Specifically, ¶ 11 provides the common definition of "loss carry forward." This is a well known tax-centered accounting principle whereby certain tax codes, including the United

States' tax code, allows a fund to apply excess (i.e. unusable) losses to the *next* fiscal year. This is wholly unrelated to the subject matter of claim 1, which defines "receiving input selecting a time period for which adjustments to accounting records of a joint venture are to be applied, where the time period falls between a present time and a time of an inception of the venture, and includes some period of time prior to the present time." Loss carry forward does not make "adjustments to accounting records" for prior time periods but rather deals exclusively with future and/or present time periods. While it may be true an entity may apply a loss from a prior year to the next year, this does not meet the substance of the pending claims. Claim 1 recites "receiving input selecting a [**prior**] time period for which **adjustments** to accounting records of a joint venture **are to be applied**." Claim 1 refers to adjustments of accounting records for a prior time period and Griffin has no disclosure of this subject matter.

With respect to ¶ 63, Griffin merely describes **present** ownership proportions of a multiple-owner share fund. Additionally, Fig. 3 (601) adjusts the **present** ownership proportion, based on a **presently** occurring, single "realization event." Griffin, as thoroughly described in cited ¶ 63, discloses *common* "realization events." A realization event is well known and well defined in the art, and relates to the realization of a financial gain or loss over the cost basis, and is typically buying or selling an asset. As ¶ 63 describes, the fund shares of Griffin are redistributed appropriately upon a realization event. A realization event has nothing to do with prior time periods. It refers to a present transaction, that causes the redistribution of shares to reflect the present action. Nothing in Griffin discloses "receiving input selecting a time period for which adjustments to accounting records of a joint venture are to be applied, where the time period falls between a present time and a time of an inception of the venture."

Additionally, neither Griffin nor Verdonick discloses "where one type of the accounting records includes cash call accounting records." It is admitted that Griffin does not disclose this feature, and asserted that Verdonick discloses this feature in the Abstract and at ¶ 34. The Abstract of Verdonick recites, "[a] method of investing provides investment returns to investors and affiliated persons who invest in a company or affiliate thereof. All or part of the investment return is derived from the value vendors receive in transactions with the company (issuer) and its affiliates. Cash, securities or other assets are provided based on discounts from vendors, value paid to vendors and other like arrangements." Similarly, ¶ 34 begins with: "One aspect of

the invention is a method of providing investment return to, or on behalf of, or for the benefit of, investors and affiliated persons and entities who invest in the same company or an affiliated company." The office characterizes this by stating that "[o]ne of ordinary skill in the art would find motivation to include 'cash' as a form of equity, as cash has the added advantage in being a fluid asset." However, the feature recited in claim 1, i.e. "cash call accounting records," is not disclosed by "cash" or records of the same. Aside from the fact that "cash calls" are known in the art, claims must be read in light of the specification. Here, the specification is quite clear, and at page 7, lines 7 to 10 it states: "Now, assume that the venture requires funds to support the venture activity (which is usually cost and capital intensive). One way the operating partner might get the funds is by creating a 'cash call'; a cash call is like an advance payment request to each partner or partners in a venture." Thus, a cash call (e.g., an ad hoc capital contribution) has nothing to do with Verdonick. In fact the cited sections of Verdonick relate to "a method of **providing investment return to**, or on behalf of, or for the benefit of, **investors . . .**" Whereas a "cash call" is a transaction that provides **assets to the venture, from the investors** (e.g., joint venture partners), which is the exact opposite of what is disclosed by Verdonick.

Although these arguments were presented in Applicant's prior responses, the present Office Action provides no response. This is improper. Please see MPEP at § 706.02(j) ("It is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply."). If the Office maintains the foregoing rejections in subsequent proceedings, Applicants respectfully request the Office to respond to the foregoing arguments with particularity to build an appropriate record for further proceedings, including possibly appeal.

For the reasons that neither Griffin nor Verdonick disclose adjustments for prior records, or anything related to "cash call" accounting records, Applicants respectfully assert that claim 1 is not unpatentable over Griffin in view of Verdonick.

Claims 2, 4, and 5 depend from claim 1 and should be allowed for at least the same reasons.

Claim 8, recites:

A machine-readable medium storing computer-executable instructions to implement a process comprising:

- (a) **receiving input selecting a time period** for which adjustments to accounting records of a joint venture are to be applied, where the time period falls between **a present time** and a time of **an inception of the venture**, and includes some period of time prior to the present time;
- (b) receiving input selecting one or more types of accounting records to which the adjustments are to be applied, **where one type of the accounting records includes cash call accounting records**; and
- (c) based on input received, applying adjustments to the accounting records of the joint venture.

Griffin in view of Verdonick does not disclose or even suggest this subject matter. Specifically, neither reference discloses "receiving input selecting a time period for which adjustments to accounting records of a joint venture are to be applied, where the time period falls between a present time and a time of an inception of the venture." Further, neither reference discloses "where one type of the accounting records includes cash call accounting records." Thus, claim 8 is also allowable.

Claims 9, 11, and 12 depend from claim 8 and should be allowed for at least the same reasons.

#### **Claim Rejections under 35 U.S.C. §103**

Claims 3, 6, 7, 10, 13, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Application No. 2002/0138387 ("Griffin"), in view of U.S. Patent Application No. 2007/0179872 ("Macalka"). For the following reasons, it is respectfully submitted that Griffin in view of Macalka does not render the present claims unpatentable.

Claims 3, 6, 7, 10, 13, and 14 depend from one of claims 1 and 8. Since Macalka does not cure the deficiencies argued with respect to claims 1 and 8, the dependent claims should be allowed for at least the same reasons.

#### **CONCLUSION**

All outstanding rejections have been overcome. It is respectfully submitted that, in view of the foregoing amendments and remarks, the application is in clear condition for allowance. Issuance of a Notice of Allowance is earnestly solicited.

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Serial No. 10/743,724  
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Although not believed necessary, the Office is hereby authorized to charge any fees required under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600.

The Office is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,

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